

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 27**

U.S. FOODSERVICE – SALT LAKE CITY DIVISION^{1[1]}

Employer,

Case No. 27-RC-8507

and

INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL 483

Petitioner.

DECISION AND ORDER

^{1[1]} At the hearing, the Petitioner amended its petition to reflect that the correct name of the Employer is “U.S. Foodservice – Salt Lake City Division.”

On December 3, 2007, International Brotherhood of Teamsters, Local 483, filed a petition under Section 9(c) of the National Labor Relations Act, as amended, seeking to represent a unit of the Employer's drivers. On December 19 and 20, 2007, a hearing officer held a hearing on that petition. At the hearing, the Petitioner amended its proposed unit description to include all full-time and regular part-time drivers and leadmen employed by the Employer at its location in Twin Falls, Idaho, and to exclude office clerical employees, guards, dock workers, and statutory supervisors as defined in the Act.^{2[2]} At the hearing, the Petitioner did not propose any other alternative appropriate bargaining unit, nor did it indicate that it would be willing to proceed to an election in an alternative unit in the event that its petitioned-for unit were deemed inappropriate.

The only issue to be addressed herein is whether the petitioned-for unit of employees is an appropriate bargaining unit. Relying on the Board's presumption that a single-facility bargaining unit in an employer multi-location operation is an appropriate unit, the Petitioner contends that its petitioned-for unit is proper. In contrast, the Employer contends that the single-location unit is not appropriate, and that the only appropriate unit must include all the drivers and warehouse employees throughout its multi-location operation. The Petitioner contends that the Employer has not presented sufficient evidence to rebut the presumptive appropriateness of the petitioned-for unit.

^{2[2]} As set forth further below, the evidence shows that the Employer's Twin Falls location does not have any office clerical employees, guards, or dock workers.

As I discuss further below, I conclude that the Petitioner's petitioned-for unit of drivers at the Twin Falls, Idaho, location is not appropriate for purposes of collective bargaining.^{3[3]}

Under Section 3(b) of the Act, the Board has delegated its authority in this proceeding to me. Upon the entire record in this proceeding, I find:

1. The hearing officer's rulings are free from prejudicial error and are hereby affirmed.

2. The Employer is engaged in commerce within the meaning of Section 2(6) and (7) of the Act and it is subject to the jurisdiction of the Board. The parties stipulated, and I find, that the Employer is a Maryland corporation, engaged in the business of food service distribution. During the last 12 months, the Employer sold goods valued in excess of \$50,000 to customers located outside the State of Maryland.

3. The Petitioner is a labor organization within the meaning of Section 2(5) of the Act.

4. Based upon the record and for the reasons set forth below, no question affecting commerce exists within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

APPLICABLE LEGAL STANDARDS

As stated above, the Petitioner contends that the proposed unit is appropriate as a single-location unit, and the Employer contends that only a larger, multi-location

^{3[3]} While this Decision concludes that the petitioned-for unit is not an appropriate one, it does not decide what the scope of an appropriate unit would be. Accordingly, the Decision does not decide whether there is merit to the Employer's contention that its proposed unit is the only appropriate unit.

unit is appropriate. The Board has made clear that it will consider a single-facility bargaining unit to be presumptively appropriate, unless the unit has been so effectively merged into a more comprehensive unit, or is so functionally integrated, that it has lost its separate identity. See Dattco, Inc., 338 NLRB 49, 50 (2002). To determine whether the presumption has been rebutted, the Board considers such factors as central control over daily operations and labor relations, including the extent of local autonomy; similarity of skills, functions, and working conditions; degree of employee interchange; bargaining history, if any; and distance between locations. Id.; New Britain Transportation Co., 330 NLRB 397, 397 (1999); Esco Corp., 298 NLRB 837, 839 (1990).

FACTUAL FINDINGS

A. Background; the Employer's Operations; the Employer's Clearfield Facility and Its Resident Yards

The Employer is involved in the wholesale delivery of food products to institutions such as cafeterias, restaurants, hospitals, schools, and resorts within the geographic boundaries of the division. The division covers parts of Utah, Idaho, Montana, Wyoming, Oregon, and Nevada. The Employer's customers place orders either electronically through a computer-based ordering system or by communicating with an Employer territory manager or sales representative. The Employer uses a "relay" route system to get products to customers, via trucks driven by shuttle drivers and delivery drivers.

The Employer is part of a larger corporate structure that is headquartered in Columbia, Maryland. The Salt Lake City Division is one of approximately 80 divisions included in that larger corporate structure. Each of those divisions is responsible for

its own profit/loss statements, operating budget, and sales. While the divisions generally are separate, there is some geographic overlap. The geographic range of the Salt Lake City Division is among the largest of the various divisions.

The Employer's main facility for this division is located in Clearfield, Utah, which is just north of Salt Lake City.^{4[4]} The Clearfield facility includes a large warehouse operation, which serves as the hub for delivery operations throughout the division's territory. The warehouse processes customer orders, gathers products, and initiates the delivery process. The day warehouse employees receive in-bound product shipments, and the night warehouse employees gather products that customers have ordered and load those products onto trailers. There are approximately 70 warehouse employees. Also, there are 43 drivers who work out of the Clearfield facility, including 42 delivery drivers and 1 shuttle driver. The Clearfield delivery drivers take loaded trailers and deliver products to customers in the Salt Lake City area. The Clearfield shuttle driver delivers loaded trailers to a location near Provo.

In addition to the Clearfield facility, the Employer places drivers at several locations dispersed throughout the division's geographic territory. The Employer refers to these locations as "resident yards." Each resident yard has shuttle drivers and/or delivery drivers. There are approximately 40 drivers assigned to the various resident yards. The drivers who operate out of those resident yards live near the particular resident yard to which they are assigned, so that it is not necessary for all

^{4[4]} The parties have referred to this facility, interchangeably, as the Salt Lake City facility or the Clearfield facility. I refer to it as the Clearfield facility.

of the drivers to drive between the Clearfield facility, their assigned resident yards, and customer locations. The resident yards are located in or near Twin Falls, Pocatello, and Boise, Idaho; Butte, Montana; Provo, Richfield, and Cedar City, Utah; and Afton, Wyoming.^{5[5]} The drivers in all those resident yards service customers of the Salt Lake City Division. The Clearfield facility provides them with the products to be delivered to the division's customers.

The shuttle drivers' primary responsibility is to transport trailers between the Clearfield facility and the resident yards, usually at night. The shuttle drivers pick up loaded trailers at the Clearfield warehouse and transport them to the resident yards, and they also pick up empty trailers at the resident yards and return them to the Clearfield warehouse. While the record does not reflect the average time that all the shuttle drivers spend at the Clearfield warehouse, it does show that the Twin Falls shuttle drivers spend approximately between 1 hour to 1 hour and 45 minutes there during their trips to Clearfield. During that time period, the shuttle drivers interact with various persons in the Clearfield facility to take care of the necessary tasks.

The delivery drivers have regular routes which begin and end at the drivers' assigned resident yard. The delivery drivers pick up their loaded trucks at their assigned yard and make the necessary stops at the customers' locations, to deliver the products that the customers ordered.

The Twin Falls resident yard is approximately 210 miles from the Clearfield facility. The yard is located at a truck stop parking lot. The Employer does not own

^{5[5]} The Boise resident yard is organized in a unique way that is not typical of the other resident yards in the Salt Lake City Division. The Boise situation will be discussed further below.

the parking lot; it belongs to the truck stop owner. There is an agreement between the truck stop owner and the Employer, under which the truck stop owner allows the Employer to use the lot so long as the Employer purchases fuel at the truck stop. The Employer also stations a trailer at the parking lot, which drivers use to store delivery equipment such as hand trucks, locks, and chains. Additionally, the Employer posts employee work schedules in the storage trailer. There are approximately nine drivers who operate out of the Twin Falls resident yard, six of whom are delivery drivers and three of whom are shuttle drivers.

The Boise resident yard is approximately 310 to 315 miles from the Clearfield facility. The yard is located at a Ryder maintenance facility.^{6[6]} There are three delivery drivers who operate out of the Boise resident yard, and no shuttle drivers. The Twin Falls shuttle drivers handle shuttling trailers to Boise.

The Pocatello resident yard is approximately 160 miles from the Clearfield facility. It is located in a fenced-in parking lot that the Employer leases. The Pocatello resident yard has three delivery drivers and two shuttle drivers.

The Butte resident yard is approximately 399 miles from the Clearfield facility. The yard is located in the parking lot of a maintenance facility. The Employer leases the yard space. The Employer has a small shed there. The Butte resident yard has four delivery drivers and two shuttle drivers.

The Provo resident yard is 68 miles from the Clearfield facility. It is located in a parking lot at a truck stop near Provo. The Employer does not own or lease the lot. The Employer and the truck stop owner have an agreement that the Employer can

^{6[6]} Ryder has the maintenance agreement on the Employer's equipment.

park there if it purchases fuel at the truck stop. There is only one driver – a delivery driver – who operates out of the Provo yard. That delivery driver receives assistance from the Clearfield shuttle driver, who regularly delivers two loaded trailers to Provo. The Provo-based delivery driver takes one of the loaded trailers and makes deliveries to customers, and the Clearfield shuttle driver takes the other trailer and makes the required customer deliveries from that trailer.

The Richfield resident yard is approximately 170 miles from the Clearfield facility. The yard is located in a hotel parking lot. The Employer does not own or lease the space. There is no trailer stationed there. The Richfield yard has two delivery drivers and no shuttle drivers.

The Cedar City resident yard is approximately 220 miles from the Clearfield facility. The yard is located in a truck stop parking lot. There are seven drivers who operate out of Cedar City – four delivery drivers and three shuttle drivers. Because the Richfield resident yard is located between Clearfield and Cedar City, the Cedar City shuttle drivers handle delivery of trailers between Clearfield and Richfield.

The Afton resident yard is approximately 220 miles from the Clearfield facility. The yard is located in the parking lot of a fueling station. The Employer is free to park there if it purchases fuel there. There is no storage trailer there. There are three delivery drivers and two shuttle drivers.

There are no Employer offices, administrative personnel, or telephones at any of those resident yards.

B. Union Representation Within the Salt Lake City Division

None of the drivers who work within the Salt Lake City Division have been represented for purposes of collective bargaining, except for the drivers in the Boise resident yard. The history of how the Boise drivers came to be represented is set forth below.

Before 2001, the Salt Lake City Division was not part of U.S. Foodservice, but was part of a competitor company, Alliant. Alliant had all the resident yards that currently are under the U.S. Foodservice Salt Lake City Division, including the Boise resident yard. The Alliant resident yard drivers in Boise were not represented by any labor organization.

At that time, U.S. Foodservice had a division in Portland, Oregon, that had its own separate resident yard in Boise. Teamsters Local 162, along with Teamsters Local 58, represented the Portland Division drivers, including that division's drivers in Boise; Vancouver, Washington; and Eugene, Oregon.^{7[7]} The parties' collective-bargaining agreement included language stating that Local 162 represented the employees of U.S. Foodservice in the Boise geographic area.

In 2001, U.S. Foodservice bought Alliant, thereby bringing Alliant's non-union Boise resident yard into U.S. Foodservice. Local 162 contended, based on the language of its collective-bargaining agreement, that those newly-acquired Boise drivers were part of its bargaining unit.

In approximately 2003, an arbitrator ruled that Teamsters Local 162 represented all the U.S. Foodservice drivers in Boise, including those who were

^{7[7]} Teamsters Locals 162 and 58 are based, respectively, in Portland and in Vancouver, Washington.

brought into the company as a result of the Alliant purchase. Since that ruling, the drivers in the formerly-Alliant Boise resident yard have been covered under the Teamsters Locals 162/58 labor agreement with U.S. Foodservice. The bargaining unit consists of the drivers in Boise, Vancouver, and Eugene.

During 2007, Teamsters Local 483 – the Petitioner in this case – became a party to the Teamsters Locals 162/58 labor agreement, and the Employer recognized it as the representative of the Boise drivers.

While the hearing record is not entirely clear on this subject, it appears that, following the arbitrator's decision, the Portland Division was primarily responsible for the Boise resident yard and that the Salt Lake City Division also had some authority over it. This joint divisional arrangement appears to have been due to the fact that, after the Alliant acquisition, both divisions serviced customers out of Boise.

The Portland Division closed in approximately mid-2007, and its operations were transferred to the U.S. Foodservice Northwest Division, which is based in Fife, Washington, near Seattle-Tacoma.

At this time, Teamsters Local 483 represents the Boise resident yard drivers under the collective-bargaining agreement described above. Additionally, the Northwest Division continues to have primary responsibility for the Boise resident yard, and the Salt Lake City Division continues to interact with that yard to service its customers from that location.^{8[8]}

^{8[8]} The record reflects that, in approximately February 2006, U.S. Foodservice closed the Boise resident yard and transferred drivers from Boise to Twin Falls. Eventually, after Teamsters Local 162 filed an unfair labor practice charge, there was a settlement agreement that led to the reopening of the Boise resident yard.

C. Management and Supervision

The Employer's overall operations within the division are the responsibility of the Division President, David Hansel. Reporting directly to Division President Hansel are Vice President of Operations Jim Siudzinski, Vice President of Human Resources Fera Vone, Vice President of Finance Tony Gagliano, Vice President of Sales Mark Sedarz, and Vice President of Purchasing/Procurement/Marketing Robert Wong. Each of those individuals has his/her office at the Clearfield facility.

The Vice President of Operations, Jim Siudzinski, has a staff who works under him, each of whom is physically located at the Clearfield facility. Reporting directly to Siudzinski are Transportation Manager Roger Esplin, Day Warehouse Manager Ron Higginson, and Night Warehouse Manager Warren Thomas.

Transportation Manager Esplin is responsible for overseeing the division's transportation operation. He has a staff that also is physically located in Clearfield. Esplin directs two Transportation Supervisors - Derek Butler and Barney Fernandez. Drivers report either to Transportation Manager Esplin or to one of the two Transportation Supervisors. Also reporting to Esplin are Scott Young, who is a "router," and Ron Hill, whose title is Director of Safety. Young is an hourly employee who establishes the delivery locations, driving directions, and delivery time windows for drivers. Young also is involved in figuring out how to cover routes when drivers are on vacation. With regard to the Twin Falls resident yard, Young gives the delivery locations and time windows to the warehouse employees, who in turn give them to the Twin Falls shuttle drivers for handing over to the delivery drivers. Director of

Safety Hill is an hourly employee who handles safety issues and monitors an on-board truck tracking system, XATA, with assistance from other employees.

Supervision of the resident yards is handled out of the Clearfield facility. Transportation Manager Esplin supervises drivers in the resident yards in Twin Falls, Pocatello, and Butte. Transportation Supervisor Butler supervises the drivers in the resident yards in Provo, Richfield, Cedar City, and Afton. Transportation Supervisor Fernandez primarily supervises drivers based at the Clearfield facility, but he occasionally handles resident yard drivers' issues. While Esplin, Butler, and Fernandez each have assigned locations, in practice they work together and help each other. A resident yard driver who has a problem or issue is free to talk to whichever supervisor is available at the time. Currently, there are no supervisors stationed in or near any of the resident yards. Additionally, with the sole exception of the Twin Falls resident yard, the resident yards do not have leadmen. There is one leadman in Twin Falls, who will be discussed further below.

As stated above, the Salt Lake City Division and the Northwest Division each have some authority over the Boise resident yard. The hearing record does not clearly define the authority that each division has over that yard, but it appears that the Northwest Division bears most of the responsibility for its operations. The Salt Lake City Division's authority over Boise drivers seems to be limited to direct delivery issues, such as providing the Boise drivers with product from the Clearfield facility, informing them of delivery locations and time windows, and ensuring that drivers fill the customers' orders in a timely fashion. The Boise resident yard drivers report to

personnel in the Northwest Division, but they also report to Transportation Manager Esplin on delivery issues relating to customers of the Salt Lake City Division.

At one time, the Employer had a Transportation Supervisor who was located near Twin Falls. Shane Shradley served as Transportation Supervisor for approximately nine years until July 2007. He lived near Twin Falls, in Rupert, Idaho, which is approximately a half hour's drive from Twin Falls. Shradley had supervised drivers in Twin Falls, Pocatello, and Butte, and he monitored the delivery operations out of Boise. The Employer stationed him near Twin Falls, rather than in Clearfield, so that he could more easily manage the drivers assigned to him. Shradley had the authority to hire, fire, and discipline drivers, and act on their vacation requests. He also took care of schedules and driver training. By mutual agreement between the Employer and Shradley, in July 2007 Shradley voluntarily stepped down from the Transportation Supervisor position to a Twin Falls delivery driver position. Since then, Transportation Manager Esplin has performed, from his Clearfield location, the supervisory duties that Shradley had performed for Twin Falls, Pocatello, and Butte.

In November 2007, the Employer made one of the Twin Falls drivers, Jeff Sheppard, a lead driver with responsibility for Idaho and Montana. Sheppard had been a delivery driver for several years and was very experienced at the time of his selection as a lead driver. When Sheppard became the lead driver, Transportation Manager Esplin informed Twin Falls and Boise drivers that Sheppard would be their first contact if they had problems and that, if they could not contact Sheppard, they should contact Esplin. Sheppard is available to answer other drivers' questions about various problems that may arise, such as issues with customers. His lead role

includes assisting the Employer with interviews and road tests for potential new hires in that area, with the ultimate hiring decision residing with Transportation Manager Esplin. His lead role also includes providing training for drivers, riding along with them as part of that training and as part of a driver evaluation process, and investigating accidents by taking photos and gathering information. Additionally, Sheppard occasionally covers vacations for drivers in Pocatello and Butte. Sheppard also has the authority, in conjunction with Esplin, to try to find someone to cover a route if a driver is absent. He also can report to Esplin about various problems with drivers and he may recommend discipline, but higher management retains the authority to conduct its own investigation and make the decisions about discipline. Sheppard receives an extra dollar per hour for being a lead driver. He also has an Employer-issued cell phone so that other drivers can contact him. Sheppard does not have authority to hire, fire, discipline, grant time off, keep track of drivers' time, or assign work. He usually spends most of his working time functioning as a delivery driver, and a small portion of his time performing lead functions.^{9[9]}

D. The Drivers' Skills and Qualifications

The Employer's shuttle drivers throughout the division all perform basically the same functions and have common skills. They transport trailers to various resident yards so that the delivery drivers can pick up the products that they deliver to customers. Shuttle drivers need a commercial driver's license ("CDL"), and they also

^{9[9]} The Petitioner suggests that Sheppard has spent most of his time performing lead functions, but its evidence is largely speculative and far from conclusive on that point.

must be certified to drive double trailers. They all use the same basic equipment, with some differences in motor and trailer size.

Similarly, the delivery drivers in all of the Employer's locations perform the same sort of duties and have similar skills. They all drive trucks and trailers to customer locations and unload products there. Their job descriptions are the same. All the delivery drivers need a CDL. Additionally, the Twin Falls delivery drivers have to be certified to drive double trailers, because several of the Twin Falls routes require that drivers pull "doubles".

E. Employment Matters for the Non-Boise Locations^{10[10]}

The Employer's Vice President of Human Resources, who is based in the Clearfield facility, has personnel responsibility for the Clearfield facility and the resident yards. The Clearfield facility handles all employee relations issues that arise in those locations. Personnel files are maintained in Clearfield.

The Clearfield-based Human Resources personnel handle all hiring. When the Employer hires new drivers, the drivers receive their orientation at the Clearfield facility, which includes safety training.

The Employer has a wage structure and benefit package that applies to all locations. All drivers start at the lower end of the structure and they can advance to higher levels. There is some deviation for specific drivers who handle special responsibilities, such as handling vacation relief or coordinating "backhaul" operations. All drivers receive their paychecks from the corporate office in Columbia,

^{10[10]} With regard to the Boise resident yard, the Salt Lake City Division does not handle the functions described immediately below. The Northwest Division takes care of such matters for the Boise resident yard.

Maryland. Personnel in Clearfield transfer the payroll information to the Maryland facility for check issuance.

The Employer's policies and procedures are the same at all of its locations. Many of those policies - such as those concerning workplace violence, drug and alcohol use, equal employment opportunity, and the employee handbook for nonunion employees – come from the national office. The Employer also is in the process of implementing an attendance policy that applies to drivers throughout the division.

The Employer provides uniforms to the drivers. Those uniforms are the same throughout the division.

Clearfield personnel coordinate required Department of Transportation drug testing for all drivers in the division. An outside company performs the drug tests.

Drivers' vacation requests go through supervisory personnel in Clearfield. The Employer maintains one seniority list for vacation purposes for drivers in Twin Falls, Pocatello, and Butte, and another seniority list for vacation purposes for Utah.

The Employer holds approximately two meetings per year at the Clearfield facility, which all drivers in the division must attend. The meetings cover issues such as policies, procedures, and safety.

F. Employee Interchange

The Employer has a variety of means of covering routes when drivers are on vacation. There is a vacation relief driver based in Twin Falls, who is responsible for covering vacations for drivers throughout Idaho and Montana, including Twin Falls,

Pocatello, and Butte. Additionally, other Twin Falls drivers sometimes have to cover for vacationing Pocatello drivers. During an average month, a Twin Falls driver has to cover for a driver in Pocatello or Butte approximately once per month for the length of the absent driver's vacation, which usually is a week. Clearfield-based drivers cover routes of vacationing drivers out of the other Utah locations. There are three Clearfield relief drivers who cover vacations throughout Utah. When a Clearfield driver takes vacation, a driver from any of the resident yards can cover the route, especially when the Clearfield driving work load is high and a resident yard's driving work load is low. The Employer has had a Twin Falls driver fill in for vacationing Clearfield drivers only infrequently. At the time of the hearing in December, the Employer did not have enough drivers in Clearfield, due to holiday vacations. To deal with that situation, the Employer assigned a Twin Falls driver, Russell Kaiser, to cover routes for those Clearfield drivers.^{11[11]} The Employer also had Kaiser cover vacations for Twin Falls and Richfield. Previously, during the Salt Lake City Olympics, the Employer had Shane Shradley – who at that time was the Transportation Supervisor living near Twin Falls – cover for Clearfield drivers.

In the event that a resident yard driver calls in sick, the Employer tries to get any other driver that it can on short notice to cover the sick driver's route. If possible, the Employer finds another off-duty driver in that same location to come in to take the sick driver's route. Alternatively, it may send a driver from a nearby location. The

^{11[11]} The Petitioner suggests that the Employer gave Kaiser that assignment in order to bolster its position in this proceeding that the petitioned-for unit is inappropriate. The Employer denied that allegation at the hearing, and the evidence submitted is not sufficient to demonstrate that the Employer made that assignment specifically for the purpose of bolstering its position in this proceeding.

Employer has had Twin Falls drivers cover for sick Pocatello and Boise drivers. Approximately once a month, a Clearfield driver shuttles trailers up to Twin Falls due to illness among the Twin Falls shuttle drivers. Once or twice a year, a Clearfield delivery driver has had to fill in on Twin Falls delivery routes.

The Employer's Salt Lake City Division drivers are able to transfer between locations within the division, but only in the event that there is a vacant position. When there is a vacant position, the Employer notifies all current drivers about it to see if anyone is interested in transferring. If no current driver expresses an interest in filling a vacant position, the Employer seeks outside applicants. The record shows that an unspecified number of Clearfield drivers transferred to Twin Falls,^{12[12]} at least one Boise driver transferred to Twin Falls, and a Twin Falls driver transferred to Butte in approximately mid-2007. Additionally, the record shows that two Clearfield drivers transferred to Butte and Pocatello, an unspecified number of Clearfield drivers transferred to Cedar City, and a Richfield driver transferred to Provo. The record does not reflect when several of those transfers occurred, although it does show that a Boise-to-Twin Falls transfer happened "years ago."

G. Bargaining History at Other Locations Outside the Salt Lake City Division^{13[13]}

^{12[12]} Jeff Sheppard was one of the Clearfield drivers who transferred to Twin Falls. Sheppard's transfer happened approximately two years ago. Another Clearfield driver who transferred to Twin Falls was Anthony Gabaldon, approximately eight months before the hearing.

^{13[13]} The Employer informed the Regional Office about a Regional Director's decision in another representation case, Case 15-RC-8452 (May 7, 2002) - involving another U.S. Foodservice division based near Jackson, Mississippi - which presented facts similar to those presented here. The petitioning union, Teamsters Local 891, sought a single-location unit consisting only of the employees at the central location (the equivalent of the Clearfield facility here) and not including several field locations

During the hearing, the parties presented testimony regarding the geographic scope of other Teamsters-represented bargaining units in the Northwest Division, in addition to the Teamsters Locals 162/58/483 unit discussed above. The Northwest Division has its central warehouse operation in Fife, Washington, and it has resident yards at various locations in Washington: Arlington, Moses Lake, Spokane, and Pasco. The testimony pertained to units that have been represented by Teamsters Local 117, Teamsters Local 690, and Teamsters Local 313.

Teamsters Local 117 represents a unit of drivers that includes the following employees: the drivers and warehouse employees based in Fife, five delivery drivers at the Arlington resident yard, and one delivery driver at the Moses Lake resident yard.^{14[14]} There is a collective-bargaining agreement between the Northwest Division and Local 117 covering those employees.

Teamsters Local 690 represents a combined unit of drivers at the two resident yards in Spokane and Pasco. The Spokane resident yard has six delivery drivers and the Pasco yard has four delivery drivers.^{15[15]} There is a collective-bargaining agreement between the Northwest Division and Local 690 covering those employees.

At some unspecified time in the recent past, Teamsters Local 313 had represented a unit of approximately 10 to 15 drivers based in Tacoma, before the Northwest Division took over operations from the now-defunct Portland Division. The

referred to as “shuttle areas” (the equivalent of the resident yards here). The Acting Regional Director determined that the petitioned-for unit was not appropriate.

^{14[14]} There are no shuttle drivers at the Arlington and Moses Lake resident yards, because drivers in Fife take care of shuttling to those yards.

^{15[15]} The shuttle drivers based in Fife shuttle to those yards as well.

Tacoma location recently was subsumed into the Fife warehouse operation, and Teamsters Local 117 currently represents those drivers as part of its unit described above.

The record does not include detailed information about how any of those units originated, or about how they fit into the larger divisional structure.

ANALYSIS

As discussed above, the parties disagree about the application of the Board's single-facility bargaining unit presumption to this case.^{16[16]} As set forth below, I conclude that the evidence is sufficient to demonstrate that the petitioned-for unit is not appropriate.

A. Central Control

As will be set forth below, the circumstances here demonstrate that there is substantial central control over the Employer's Twin Falls operations and labor relations, and that the extent of any local autonomy is slight. The centralization of such control in Clearfield, and the absence of real autonomy in Twin Falls, are strong

^{16[16]} On the facts of this case, it is not clear that the Twin Falls resident yard is the type of facility to which the single-facility presumption applies. The Employer's Twin Falls resident yard consists merely of a truck stop parking lot that the Employer has permission to use in exchange for purchasing fuel there. The Employer does not own or lease that property, it does not have an office there, and it does not have any personnel who work primarily at that location. The Twin Falls drivers use the lot only to pick up, drop off, and store equipment. However, both parties assume that the Board's analysis for single-location bargaining units applies. Additionally, in Case 15-RC-8452, discussed above, the Acting Regional Director applied that analysis to a situation similar to that present here. Accordingly, the analysis below examines the factors relevant to that inquiry.

factors weighing against the petitioned-for unit. See, e.g., R & D Trucking, Inc., 327 NLRB 531, 532-533 (1999).

The evidence demonstrates that the Employer's Clearfield facility controls essentially all of the day-to-day operations of the Twin Falls resident yard. The Employer's main facility is located in Clearfield, where it takes customer orders and starts the process of making the necessary deliveries. Once orders come in, warehouse employees at that facility gather products and load them onto trailers. Twin Falls shuttle drivers go to that facility, pick up those trailers, drive them back to Twin Falls, and return the empty trailers to Clearfield. The Clearfield-based router, Scott Young, determines the delivery locations, driving directions, and delivery time windows for each of the Twin Falls delivery drivers. The delivery drivers receive the products from the shuttle drivers and transport them directly to the customers who placed orders in Clearfield. Additionally, tracking of the drivers occurs through personnel at the Clearfield facility, using the XATA system. Although the Twin Falls resident yard is located far from Clearfield, it is apparent that Clearfield runs the Twin Falls operation.

Given that central control exists through Clearfield, there is a commensurate absence of control in Twin Falls. For example, personnel in Twin Falls have little or no influence over drivers' schedules, which customers they will serve on any given day, which directions they will follow, or when they have to pick up or drop off trucks and trailers or make deliveries. The lack of autonomy at the Twin Falls operation demonstrates the inappropriateness of the petitioned-for unit.

Furthermore, as of the time of the filing of the petition and of the hearing in this matter, there was no locally-based supervision in or near Twin Falls. While Shane Shradley had served as a Transportation Supervisor based near Twin Falls, Shradley ceased performing that function in July 2007. The Employer did not fill Shradley's vacant supervisory position. Rather, Transportation Manager Esplin took over the task of supervising the Twin Falls drivers, as well as the Pocatello and Butte drivers, from his Clearfield office. As part of that supervisory authority, Esplin has the power to hire, fire, discipline, grant or deny time off, and otherwise direct the Twin Falls drivers. Moreover, the other Clearfield-based Transportation Supervisors have authority over the drivers in Twin Falls and in other resident yards. The lack of any local supervisors in Twin Falls, and the fact that the Clearfield-based supervisory team supervises drivers at all the resident yards, weighs in favor of the conclusion that Twin Falls does not constitute an appropriate unit. See, e.g., R & D Trucking, Inc., 327 NLRB 531, 532 (1999) (common supervision that is not limited to a single facility weighs in favor of the conclusion that the single-facility presumption is inapplicable).

It is true that, shortly before the hearing, the Employer appointed Sheppard to be a lead driver in Twin Falls. However, Sheppard's lead duties, described above, do not establish that the Twin Falls location has sufficient autonomy for it to be considered an appropriate bargaining unit. Sheppard's lead duties are limited primarily to assisting drivers and higher management, and they do not amount to significant local control over operational issues or labor relations.

In that regard, while the Petitioner has suggested that Sheppard is a Section 2(11) supervisor, I conclude that his lead duties are insufficient to make him a statutory supervisor.^{17[17]} The evidence does not indicate that Sheppard exercises any of the Section 2(11) powers, or that he uses independent judgment with regard to any such powers. See generally Croft Metals, Inc., 348 NLRB No. 38 (2006) (holding that the lead employees in that case were not statutory supervisors); Oakwood Healthcare, Inc., 348 NLRB No. 37 (2006) (clarifying the Board's analysis of supervisory status).

Furthermore, it is clear that, in addition to Transportation Manager Esplin and the two Transportation Supervisors, there are other personnel in the Clearfield facility and in the national office in Maryland who have meaningful authority to affect the drivers' terms and conditions of employment. Clearfield has a central Human Resources office that handles hiring, employee orientation, payroll issues, drug testing, personnel files, and similar matters. The Maryland office develops and requires implementation of various other important policies and procedures. There is no one in the Twin Falls office who possesses any such authority over such matters. See, e.g., Prince Telecom, 347 NLRB No. 73, slip op. at 4 (2006) (a high degree of administrative centralization of labor relations policies supports the conclusion that the presumptive appropriateness of a single-location unit is rebutted).

Additionally, the Twin Falls yard operation is tied in with the operation of other resident yards. Thus, for example, the Twin Falls shuttle drivers handle the shuttle

^{17[17]} In its brief, the Petitioner did not specifically claim that Sheppard is a statutory supervisor, nor did it present argument or cite cases to support such a claim. However, at times during the hearing, the Petitioner claimed that Sheppard is a supervisor and not merely a lead worker.

operation between the Boise resident yard and Clearfield. Also, Twin Falls drivers provide vacation relief and sick relief for the other Idaho and Montana resident yards.

In sum, the Twin Falls resident yard cannot be viewed as a separate and largely independent, autonomous unit that would be appropriate for collective bargaining.

B. Similarity of Skills, Functions, and Working Conditions

The Twin Falls drivers have basically the same skills as the drivers in the other locations, they all perform basically identical functions, and they work under similar conditions. All the drivers operate similar trucks and/or trailers as part of an over-the-road, integrated delivery operation. The shuttle drivers all transport trailers between the warehouse and the resident yards, and the delivery drivers all pick up products and deliver them to customers. The licensing requirements applicable to all the shuttle drivers are identical, and the licensing requirements applicable to the delivery drivers are very similar. The only licensing difference between the Twin Falls drivers and the other drivers is that the Twin Falls drivers must be certified to drive double trailers while the others do not need that certification. That difference, however, is not so appreciable as to show that the Twin Falls drivers have interests separate and apart from the drivers in other locations. Additionally, all of the drivers – with the exception of the union-represented Boise drivers - are subject to the same wage structure, benefits package, policies and procedures, and dress requirements. They also share the same management and supervisory team, including the same Human Resources personnel. Further, their hiring, orientation, and training processes are identical, and they attend training together twice a year in the Clearfield facility.

Those many factors that the drivers have in common further demonstrate that the single-location unit is not appropriate. See, e.g., Prince Telecom, 347 NLRB No. 73, slip op. at 4 (2006).

C. Degree of Employee Interchange

The evidence shows that there are times when the Twin Falls drivers interchange with drivers in locations outside Twin Falls. As discussed above, there is interchange with non-Twin Falls drivers in terms of vacation coverage. Twin Falls drivers – especially the Twin Falls vacation relief driver – go to Pocatello and Butte regularly to cover routes for drivers who are on vacation in those locations. Additionally, Twin Falls drivers occasionally cover for sick drivers in nearby locations, and Clearfield drivers cover for the Twin Falls shuttle drivers approximately once a month when they fall ill. Also, there have been occasional permanent transfers both into and out of the Twin Falls location. Some Clearfield drivers - including the current Twin Falls lead driver – transferred into Twin Falls. The record shows that there have been two such transfers in approximately the last two years. While two transfers is not a high number, it has some significance, especially in light of the fact that Twin Falls had only nine drivers at the time of the hearing. The extent of this interchange is not overwhelming and, by itself, would not rebut the single-facility presumption. In conjunction with the factors discussed above, however, it further weakens the claim that the single-location unit is proper.

D. Bargaining History

There is no history of bargaining for any location in the Salt Lake City Division except for the Boise resident yard, which overlaps that division and the Northwest

Division. The Boise bargaining history, however, does not support the conclusion that the petitioned-for unit of Twin Falls drivers is appropriate. The Boise drivers do not comprise their own separate and independent unit. Rather, they are included in a larger, multi-location bargaining unit that also includes drivers in Vancouver and Eugene. While that fact does not necessarily undermine the Petitioner's contention that the proposed single-location unit is appropriate, neither does it advance that contention. The Petitioner suggests that the existence of that unit bolsters its case in this proceeding, because that unit does not include a central warehouse location. However, the evidence does not reveal the reasons or balance of factors that may support the appropriateness of that particular unit. In the absence of more explanatory evidence on such issues, the mere fact that such a unit exists is of limited value.

With regard to the other evidence concerning bargaining history in the Northwest Division (that is, the Teamsters Locals 117 and 690 units), I conclude that that evidence also does not bolster the Petitioner's position. Based on the evidence presented, it seems that those other currently existing units each include more than one geographic location. The Teamsters Local 117 unit consists of employees at the central warehouse and at two resident yards, and the Teamsters Local 690 unit consists of employees at two other resident yards. Given that neither of those units is a single-location unit, the existence of those units hardly bolsters the Petitioner's contention here. Also, the record lacks evidence bearing on the factors relating to the appropriateness of those units and, in the absence of such evidence, the existence of those units can have little relevance to the issues presented in this case.

Also, the Petitioner relies on evidence that, for some unspecified time period up until the recent past, Teamsters Local 313 represented a bargaining unit consisting only of employees at a single location in Tacoma. However, as with the Teamsters Locals 117 and 690 units, it is unclear how and why that unit came to exist. Thus, the fact that such a unit existed is not entitled to much weight here. Moreover, that single-location unit does not exist any longer, and it has been subsumed into the Teamsters Local 117 larger, multi-location unit.

Accordingly, I conclude that the evidence concerning bargaining history does not support the petitioned-for unit.^{18[18]}

E. Distance Between Locations

There is no doubt that the Twin Falls location is located far from the other locations within the Salt Lake City Division. Pocatello and Boise are the locations nearest to Twin Falls, but those locations still are quite far away. The distance between Twin Falls and Pocatello is approximately 115 miles, and Twin Falls and Boise are 130 miles apart. The other locations are even further. For example, it is 210 miles from Twin Falls to the Clearfield facility, and hundreds more miles past Clearfield to Cedar City. The considerable distance between Twin Falls and the other facilities weighs in favor of the single-facility unit.

^{18[18]} I observe, however, the evidence of that bargaining history may undercut the Employer's position that the only appropriate bargaining unit must include the drivers and warehouse employees at all locations within the Salt Lake City Division. The history from the Northwest Division suggests that there may be reasons for constituting separate bargaining units that each include fewer than all divisional locations. As stated above, this Decision does not address whether some other proposed larger unit that is less than division-wide would be appropriate.

The fact that distance supports the single-location presumption, however, is not dispositive. The various relevant factors must be weighed and balanced. My conclusion is that the factors discussed above outweigh the significance of the geographic distance involved here. See, e.g., Waste Management Northwest, 331 NLRB 309, 309 (2000) (where several of the relevant factors outweighed the two factors of distance and interchange, petitioned-for single-location unit deemed inappropriate).

F. Conclusion

For the reasons discussed above, I find that the Twin Falls facility is so functionally integrated with other Employer locations that it does not have a separate identity, and that any presumption that a single-facility unit at Twin Falls is appropriate has been rebutted.

ORDER

Inasmuch as I have found that the only unit in which the Petitioner has indicated a willingness to proceed to an election is not appropriate for the purposes of collective bargaining, I shall dismiss the petition. See, e.g., Prince Telecom, 347 NLRB No. 73, slip op. at 5 (2006).

RIGHT TO REQUEST REVIEW

Under the provision of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision and Order may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, NW, Washington, DC 20570. This request must be received by the Board in Washington by January 28, 2008.

Dated at Denver, Colorado this 14th day of January, 2008.

/s/ Michael W. Josserand, Regional Director
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